

REMARKS

Claims in the Application.

Claims 1-29 are pending in the present application. Claims 1-29 have been renumbered consistent with the Examiner's correction to the numbering. Claims 1-29 have been amended. Claims 1-29 have been rejected.

In light of the amendment and following remarks, Applicant respectfully submits that the active claims of this application are in a condition for Allowance and Notice to that effect is earnestly solicited.

Renumbering of the Claims.

The amendments to the claims include a renumbering of the claims consistent with the Examiner's correction. Reconsideration is respectfully requested.

Rejection of Claim 12 under 35 U.S.C. § 102.

The Examiner has rejected Claim 12 as being anticipated by U.S. Patent No. 5,151,122 ("*Atsumi*") or U.S. Patent No. 5,531,908 ("*Matsumoto*"). Claim 12 has been amended. Reconsideration is respectfully requested.

Rejection of Claims 13-24 under 35 U.S.C. § 103(a).

The Examiner has rejected Claim 13-24 under 35 U.S.C. § 103(a) as being unpatentable over *Atsumi* or *Matsumoto*. When considering an obviousness rejection, the Examiner cannot "pick and choose among the individual elements of assorted prior art references to recreate the claimed invention," but rather, the Examiner must look for "some teaching or suggestion in the references to support their use in the particular claimed combination." See *SmithKline Diagnostics, Inc. v. Helena Lab. Corp.*, 859 F.2d 878, 887 (Fed. Cir. 1988). Moreover, a prior art reference may be considered to teach away when "a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant." *In re Gurley*, 27 F.3d 551, 553 (Fed. Cir. 1994).

Atsumi discloses a process for producing an antibacterial ceramic material wherein the ions are fixed to the ceramic surface. *Atsumi* does not teach the use of this material on drinking water or the release of ions into the drinking water. *Atsumi* requires that the antibacterial material must be in contact with the ceramic. Moreover, *Atsumi* teaches away from controlling the contamination of drinking water and instead discuss the formation of ceramics. There is no motivation to seek or use the teaching of *Atsumi* in the removal of contamination in drinking water. The Example in *Atsumi* cited by the Examiner creates an antibacterial zeolite containing silver and zinc. This a significantly different composition from the use of zeolite to remove contamination from drinking water. Therefore, *Atsumi* is inappropriate as reference to teach the inventive aspects as claimed in the claims of the present application. Reconsideration is respectfully requested.

Matsumoto also fails to teach the inventive aspects as claimed. Though zeolite is disclosed in *Matsumoto*, this reference does not teach the use of zeolite for the removal of contamination or the release of ions into the drinking water. *Matsumoto* teaches:

Preferably, the antibacterial material is prepared by combining silver ion selected from the group of antibacterial metal ions including silver ion, copper ion and zinc ion with an ion exchanger through an ion exchange reaction, or by combining silver ion, copper ion and zinc ion with an ion exchanger through an ion exchange reaction, or by causing an insoluble inorganic substance to carry silver ion, copper ion and zinc ion, or by causing an insoluble inorganic substance to carry silver ion, copper ion and zinc ion. The ion exchanger can be zeolite or an ion exchanger rein. The insoluble, inorganic substance can be zirconium compound, for instance.

Col. 53-64. *Matsumoto* teaches the use of silver ions for this purpose. This teaches away from the invention as claimed. Moreover, *Matsumoto* is silent as to any teaching of collection by condensation. In contrast, *Matsumoto* teaches away from collection by condensation and only discloses an opening for dispensing. For these reasons, *Matsumoto* teaches away from the present invention. Reconsideration is respectfully requested.

Rejection of Claims 25-29 under 35 U.S.C. § 103(a).

The Examiner has rejected Claim 25-29 under 35 U.S.C. § 103(a) as being unpatentable over *Atsumi* or *Matsumoto* in light of U.S. Patent No. 4,247,524 (“*Leonard*”). *Leonard* fails to

correct any of the failings of *Atsumi* or *Matsumoto*. *Leonard* is silent to drinking water or the collection of water via condensation. *Leonard* limits its teaching to hydrothermal treatment. Because *Leonard* fails to cure the deficiencies of *Atsumi* or *Matsumoto*, reconsideration is respectfully requested.

Rejection of Claims 1-5 under 35 U.S.C. § 103(a).

The Examiner has rejected Claim 1-5 under 35 U.S.C. § 103(a) as being unpatentable over admitted prior art in view of *Matsumoto*. The alleged teaching of *Matsumoto* has been discussed and refuted above. The Background of the Invention does not cure the deficiencies of *Matsumoto*. The Background of the invention notes that methods of collecting water from condensation exist, but that the present invention as claimed is a significant improvement over these methods. For the reasons discussed above with respect to the failures of *Matsumoto*, reconsideration is respectfully requested.

Rejection of Claims 6-11 under 35 U.S.C. § 103(a).


The Examiner has rejected Claim 6-11 under 35 U.S.C. § 103(a) as being unpatentable over admitted prior art in view of *Matsumoto* in further view of *Leonard*. The alleged teachings of *Matsumoto* and *Leonard* have been discussed and refuted above. The Background of the Invention does not cure the deficiencies of either *Matsumoto* or *Leonard*. For the reasons discussed above with respect to the failures of *Matsumoto* and *Leonard*, reconsideration is respectfully requested.

CONCLUSION

For the stated reasons, reconsideration is respectfully requested. The Commissioner is hereby authorized to charge or credit the Deposit Account No. 12-1322 of Locke Liddell & Sapp LLP under Order No. 021544-00002. In light of the foregoing remarks, the claims of the application have been distinguished over the cited references. The Examiner is requested to contact the undersigned at (713) 226-1218 should he deem it necessary to advance the prosecution of this application.



Respectfully submitted,


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CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. § 1.8(a)

I hereby certify that this correspondence was mailed by first class mail to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 23rd day of February 2005.

DATED: February 23, 2005


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